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| 10/554,022 | 10/21/2005 | Daniel Michael Doulton | 5035-223US/P32,004 USA | 2874 |
| 20802 | 7590 | 06/27/2007 | EXAMINER | |
| SYNNESTVEDT LECHNER & WOODBRIDGE LLP | | | AJAYI, JOEL | |
| P O BOX 592 | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/554,022 | DOULTON, DANIEL MICHAEL | |
| | Examiner | Art Unit | |
| | Joel Ajayi | 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 April 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gress et al. (U.S. Patent Application Number: 2006/0128409)** in view of **McLaughlin et al. (U.S. Patent Application Number: 2006/0058049)**.

Consider **claim 1**; Gress discloses a method of generating a SMS or MMS message from a voice message spoken into a first mobile telephone, the SMS or MMS message being sent to a second mobile telephone (the SMS module converts a voice message for a subscriber to a text message, and sends the new/converted SMS message to another subscriber) (paragraph 26, lines 1-9; paragraph 27, lines 8-11; paragraph 32, line 8 – paragraph 33, line 6), the method comprising the steps of:

- a. An end-user message originator speaking the voice message into the first mobile telephone and then selecting an option or function on the first mobile telephone to cause the voice message to be remotely converted to a SMS or MMS message (SMS module) for display on the second mobile telephone (the SMS module converts a voice message for a subscriber to a text message, and sends the new/converted SMS message to another subscriber, who can retrieve or delete the message) (paragraph 26, lines 1-9; paragraph 27, lines 8-11; paragraph 32, line 8 – paragraph 33, line 6).
- d. Causing the converted text message to be sent to the second mobile telephone as the SMS or MMS message (the SMS module converts a voice message for a subscriber to a text message, and sends the new/converted SMS message to another subscriber, who can retrieve or delete the message) (paragraph 26, lines 1-9; paragraph 27, lines 8-11; paragraph 32, line 8 – paragraph 33, line 6).

Except:

- b. Converting the voice message to an audio file format.
- c. Sending or streaming the audio file to a voice to text transcription system to enable an operator to intelligently transcribe the voice message into a transcribed text message.

In the same field of endeavor McLaughlin discloses converting the voice message to an audio file format (paragraph 206, lines 18-23; paragraph 209, line 9 – paragraph 210, line 29; paragraph 212, lines 1-6); sending or streaming the audio file to a voice to text transcription system to enable an operator (relay operator) to intelligently transcribe the voice message into a transcribed text message (paragraph 206, lines 18-23; paragraph 209, line 9 – paragraph 210, line 29; paragraph 212, lines 1-6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of McLaughlin into the method of Gress in order to provide textual communication between nodes within the network communication system.

Claims 2-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gress et al. (U.S. Patent Application Number: 2006/0128409)** in view of **McLaughlin et al. (U.S. Patent Application Number: 2006/0058049)**, further in view of **Martin (U.S. Patent Number: 6,606,373)**.

Consider **claims 2-20**; Gress and McLaughlin disclose the claimed invention except that the transcribed text message has added to it the time and date of the voice message.

In the same field of endeavor Martin discloses that the transcribed text message has added to it the time and date of the voice message (column 1, lines 19-24; column 5, line 63 – column 6, line 15; column 12, lines 40-44, 52-56, line 65- column 13, line 4).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of martin into the method of Gress and McLaughlin in order to convert voice messages to text messages, and transmitting a text message to a subscriber.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

Art Unit: 2617

Examiner should be directed to Joel Ajayi whose telephone number is (571) 270-1091. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm and Friday 7:30am to 4:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Joel Ajayi

June 22, 2007

Nick Corsaro
NICK CORSARO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600